

WC 10-101

**PUBLIC SERVICE COMMISSION  
OF THE DISTRICT OF COLUMBIA**

1625 I Street, Northwest  
WASHINGTON, D. C. 20006  
(202) 727-1000



March 30, 1978

FILED/ACCEPTED  
APR 26 2010

Federal Communications Commission  
Office of the Secretary

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APR 6 1978

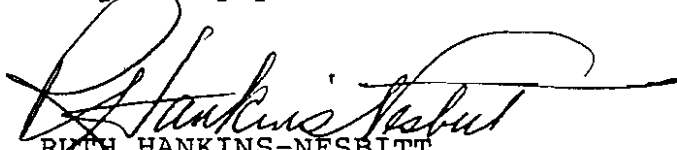
CHIEF, COMMON CARRIER BUREAU

The Honorable Charles D. Ferris  
Chairman  
Federal Communications Commission  
1919 M Street, Northwest  
Washington, D. C. 20054

Dear Mr. Ferris:

This is to advise you that the District of Columbia Public Service Commission has requested an opinion from the Corporation Counsel of the District of Columbia as to our authority to regulate the rates, terms and conditions for CATV pole attachments. In view of the time restraint imposed by the statute, we expect that opinion to be forthcoming soon. Accordingly, we shall promptly advise you of our authority in those premises as required by Section 224(c)(2) of the Communications Act of 1934 as recently amended by Public Law 95-234.

Very truly yours,

  
RUTH HANKINS-NESBITT  
CHAIRPERSON

APR 1

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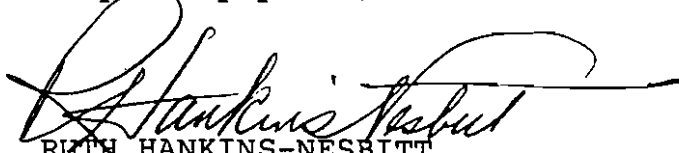
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RUTH HANKINS-NESBITT  
CHAIRPERSON

APR 17

**PUBLIC SERVICE COMMISSION  
OF THE DISTRICT OF COLUMBIA**

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APR 26 2010

Federal Communications Commission  
Office of the Secretary

1625 I Street, Northwest  
WASHINGTON, D. C. 20006  
(202) 727-1000



May 22, 1978

The Honorable Charles D. Ferris, Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D. C. 20054

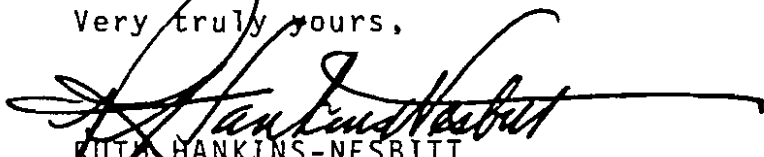
Dear Mr. Ferris:

In my letter of March 29, 1978, I promised to inform you of this Commission's authority to regulate the rates, terms, and conditions for cable television (CATV) pole attachments in the District of Columbia.

The Commission has statutory authority to prescribe the conditions and compensation for the use by one utility of another utility's poles (D.C. Code § 43-302). However, whether a CATV system would be deemed a "utility" for the purposes of the above-cited statutory provision or whether the Commission may, under its general authority to insure reasonable rates for utility services (D.C. Code § 43-301), set the terms and conditions for CATV pole attachments, is at present an academic question. Neither Congress nor the District of Columbia Council has enacted legislation awarding or providing for the award of a CATV franchise; therefore, the pole attachment issue has not arisen. I hasten to add that the Commission feels that it does have the power to regulate CATV pole attachments, as part of its general authority referred to above. There is pending in the District of Columbia Council a CATV franchise Bill, which probably will clarify the matter.

Please include the District of Columbia Public Service Commission on the list of those to be notified of any regulations proposed by the Federal Communications Commission in this area.

Very truly yours,

  
RUTH HANKINS-NESBITT  
Chairperson

COMMON CARRIER BUREAU

JUN 7 1978  
TARIFFS AND SERVICES  
DIVISION

COMMON CARRIER BUREAU  
TARIFFS AND SERVICES  
DIVISION

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MAY 25 1978

CHARLES D. FERRIS  
CHAIRMAN

# Public Service Commission of the District of Columbia

451 INDIANA AVENUE, NW  
WASHINGTON, D.C. 20001  
(202) 727-3050



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APR 26 2010

Federal Communications Commission  
Office of the Secretary IN REPLY REFER TO:

January 22, 1985

Federal Communications Commission  
Attention: Margaret Wood, Esq.  
Room 6206  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Pole Attachment Rules

Dear Ms. Wood:

In compliance with amended Section 224 (c) of the Communications Act, (47 U.S.C. §224(c)), and pursuant to the request from your enforcement division, we are enclosing a copy of the Public Service Commission of the District of Columbia's ("Commission") Pole Attachment Rules.

The Commission initially published its Notice of Proposed Rulemaking on November 30, 1984 in the District of Columbia Register at 31 DCR 6074-6081. The final rules, adopted in Commission Order No. 8152 on December 14, 1984, were published on December 21, 1984 at 31 DCR 6496-6501 and became effective on December 21, 1984.

There is some question as to the accuracy of the time period allowed for resolution of complaints. (See §1608.1 of the D.C. Public Service Commission cable television rules). Once the appropriate time has been determined, any necessary amendments will be made.

Sincerely,

A handwritten signature in cursive script, appearing to read "Max G. Meredith".

Max G. Meredith  
Acting Secretary

Attachment

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JAN 22 1985

ENFORCEMENT DIVISION

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APR 26 2010

Federal Communications Commission  
Office of the Secretary

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JAN 22 1985

ENFORCEMENT DIVISION

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA**

**NOTICE OF FINAL RULEMAKING**

**Formal Case No. 815, In the Matter of Investigation into  
the Conditions for Cable Television Use of Utility Poles in the  
District of Columbia**

The Public Service Commission ("Commission") hereby gives notice of its final rulemaking action in this case, taken on December 14, 1984, by Order No. 8152. The Notice of Proposed Rulemaking appeared on November 30, 1984 at 31 DCR 6074-6081. The final rules take into consideration comments filed by The Chesapeake and Potomac Telephone Company and the Potomac Electric Power Company. No substantive changes have been made, however, several technical and editorial changes have been made to the final rules (including renumbering of portions of the text) in order to clarify the proposed rules as originally published.

The following are the final rules adopted by the Commission:

**Chapter 16**

**POLE ATTACHMENT PROVISIONS  
FOR CABLE TELEVISION**

**1600 PURPOSE AND STANDARDS**

- 1600.1 This Chapter implements the Commission's regulatory authority over the rates, terms and conditions for cable television use of existing utility company rights-of-way located within the District of Columbia, including the use of existing utility poles and underground conduits. This chapter also provides procedures for prompt processing of complaints regarding the rates, terms and conditions of such use.
- 1600.2 The Commission shall regulate the matters described in section 1600.1 in accordance with District of Columbia law, federal law, and to the extent applicable, Federal Communications Commission rules and regulations.
- 1600.3 The Commission shall ensure that all rates, terms and conditions prescribed in accordance with this Chapter are just and reasonable.

1601 NOTICE OF REMOVAL AND PETITION FOR TEMPORARY STAY

1601.1 A utility company shall provide a cable television system operator no less than sixty ( 60) days written notice prior to the following:

(a) Removal of facilities or termination of any service to those facilities, such removal or termination arising out of a rate, term or condition of a cable television pole attachment agreement, or

(b) Any increase in pole attachment rates.

1601.2 A cable television system operator may file a "Petition for Temporary Stay" of the action contained in a notice received pursuant to section 1601.1, within fifteen (15) days of receipt of such notice. This submission shall not be considered unless it includes a copy of the notice and states in concise terms, the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television service. The named respondent shall file an answer within seven (7) days of the date the Petition for Temporary Stay was filed.

1601.3 No further filings under section 1601.2 shall be considered unless requested or authorized by the Commission and no extensions of time shall be granted unless justified pursuant to Commission rules.

1602 COMPLAINTS

1602.1 Complaints relating to the rates, terms and conditions of use of utility company rights-of-way located within the District of Columbia, including use of existing utility poles and under ground conduits, shall be filed in accordance with and will be governed by the procedures set forth in Chapter 1 of this title as such procedures pertain to processing of formal complaints, except as otherwise provided by this Chapter.

1602.2 A complaint may be filed by a cable television franchise franchisee or by a utility company.

1602.3 The complaint shall be accompanied by a copy of the pole attachment agreement, if any, between the cable television franchisee and the utility company. If there is no present pole attachment agreement, the complaint shall contain the following:

(a) A statement that the utility uses or controls poles, poles, ducts or conduits used or designated, in whole or in part, for wire communication; and

- (b) A statement that the cable television operator currently has attachments on some of these poles, ducts or conduits.

1602.4 The complaint shall state with specificity the pole attachment rate, term or condition which is claimed to be unjust or unreasonable and shall specify all information and argument relied upon to justify said claim.

1602.5 In a case where it is claimed that either a rate is unjust or unreasonable, or a term or condition is unjust or unreasonable and examination of the term or condition requires review of the associated rate, the complaint shall provide data and information in support of said claim. The data and information shall include, where applicable, the following information:

- (a) The depreciated installed cost of poles in the District of Columbia.
- (b) The total number of poles; (i) Owned; and (ii) Controlled or used by the utility;
- (c) The total number of poles which are the subject of the complaint;
- (d) The number of poles included in paragraph (c) of this section that are owned by the utility and that are leased to other users by the utility, and the annual share of pole costs allocated to the users (including the complainant), together with the methodology for such allocation;
- (e) The annual carrying charges for the poles owned and controlled or used by the utility.

1602.6 With respect to the data required by section 1602.5, this data and information shall be based upon the cost methodology, prescribed by the Commission. Data shall be derived from Form M, FERC 1, or other reports filed with state or federal regulatory agencies (identify source). Calculations made in connection with these figures should be provided to the complainant.

1602.7 Where the attachments to the data required by section 1602.5 involve ducts, conduits, or rights of way, in whole or in part, appropriate and equivalent data and information should be filed. The complainant shall also specify any other information and argument relied upon to attempt to establish that a rate, term, or condition is not just and reasonable.

1602.8 If any of the information required in Section 1602.5 is not provided to the cable television operator by the utility upon reasonable request, the cable television operator shall include a statement indicating the steps taken to obtain the information from the utility, including the dates of all requests. No complaint filed by a cable television operator shall be dismissed where the utility has failed to provide the information in section 1602.5 after a reasonable request.

1602.9 The complaint shall include a brief summary of all steps taken to resolve the problem prior to filing.

### 1603 RESPONSE AND REPLY

1603.1 Respondent shall have thirty (30) days from the date the complaint was filed within which to file a response. Complainant shall have twenty (20) days from the date the response was filed within which to file a reply.

1603.2 Extensions of time to file are not contemplated unless unless justification is shown pursuant to the Commission's Rules of Practice and Procedure. Except as otherwise provided herein, no other filings and no motions other than for extension of time shall be considered unless authorized by the Commission.

### 1604 DISMISSAL OF COMPLAINTS

1604.1 A complaint against a utility shall be dismissed if the utility does not use or control poles, ducts, or conduits used or designated, in whole or in part, for wire communication.

1604.2 If the complaint does not contain substantially all the information required under section 1602, the Commission may dismiss the complaint or may require the complainant to file additional information. The complaint shall not be dismissed if the information is not available from public records or from the respondent utility after reasonable request.

1604.3 Failure by the complainant to respond adequately to a Commission request for additional information shall be cause for dismissal.

1604.4 Dismissal under provisions of section 1604.2 shall be with prejudice if the complaint has been dismissed previously. Such a complaint may be refiled no less than six months from the date it was dismissed.



1605 COMMISSION CONSIDERATION OF THE COMPLAINT

- 1605.1 In its consideration of the complaint, response, and reply, the Commission may take notice of any information contained in publicly available documents made by the parties and may accept, subject to rebuttal, studies that have been conducted. The Commission may also request that one or more of the parties make additional filings or provide additional information.
- 1605.2 Where one of the parties has failed to provide information required to be provided by these rules or requested by the Commission, or where costs, values or amounts are disputed, the Commission may estimate such costs, values or amounts it considers reasonable, or may decide adversely to a party who has failed to supply requested information which is readily available to it, or both.
- 1605.3 The complainant shall have the burden of establishing a prima facie case that the rate, term, or condition is not just and reasonable.
- 1605.4 The Commission shall determine whether the rate, term or condition complained of is just and reasonable.
- 1605.5 If the Commission determines that the complainant has not established a prima facie case or that the rate, term, or condition complained of is just and reasonable, the Commission shall deny the complaint.

1606 REMEDIES

- 1606.1 If the Commission determines that the rate, term, or condition complained of is not just and reasonable, it may prescribe a just and reasonable rate, term, or condition and may take any of the following actions:
- (a) Terminate the unjust and unreasonable rate, term, or condition;
  - (b) Substitute in the pole attachment agreement the just and reasonable rate, term, or condition established by the Commission.

1607 ENFORCEMENT

- 1607.1 If the respondent fails to obey an order imposed under this subpart, the Commission on its own motion or upon the motion of the complainant may order the respondent to show cause why it should not cease and desist from violating the Commission's order.

1608        TIME CONSTRAINTS

1608.1     With respect to any individual matter, the Commission shall take final action within 360 days after the filing of the complaint.

1609 - 1698        RESERVED

1699        DEFINITIONS

For purposes of this Chapter, the following terms have the ascribed meanings:

Pole attachment - any attachment by a cable television system to a pole, duct, conduit, or right-of-way owned or controlled by a utility company.

Complaint - a filing by either a cable television system operator or a utility alleging that a rate, term or condition for a pole attachment is not just and reasonable.

Complainant - a cable television system operator or a utility who files a complaint.

Respondent - a cable television system operator or a utility against whom a complaint is filed.

Commission - the Public Service Commission of the District of Columbia.

\* \* \*

Pursuant to Order No. 8152, these rules are effective upon publication of this Notice in the D.C. Register.